

This proposal was filed with the Office of Administrative Law which may have edited it before publishing it in the New Jersey Register. Please refer to the February 4, 2002 New Jersey Register (34 N.J.R. 695(a) for the official text of the proposal.

ENVIRONMENTAL PROTECTION

OFFICE OF AIR QUALITY MANAGEMENT

AIR QUALITY REGULATION PROGRAM

Air Pollution Control

Emission Statements

Proposed Amendments: N.J.A.C. 7:27-21, 22.1, 22.6 and 22.31; and 7:27A-3.2 and 3.10

Authorized By: Robert C. Shinn, Jr., Commissioner, Department of Environmental Protection.

Authority: N.J.S.A. 26:2C, particularly 26:2C-8 and 26:2C-9.8; 13:1B-3, and 13:1D-9

Calendar Reference: February 4, 2002, published elsewhere in this issue of the New Jersey Register.

DEP Docket Number: 03-02-01/149

Proposal Number: PRN 2002-67

A **public hearing** concerning this proposal will be held on March 8, 2002, at 9:00 A.M. at the following location:

New Jersey Department of Environmental Protection
401 East State Street
Hearing Room—First Floor, East Wing
Trenton, New Jersey

Submit written comments, identified by DEP docket number, by March 9, 2002 to:

Stacey P. Roth, Esq.
Attn: DEP Docket No. 03-02-01/149
Office of Legal Affairs
New Jersey Department of Environmental Protection
P.O. Box 402
Trenton, N.J. 08625-0402

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Written comments may also be submitted at the public hearing. It is requested (but not required) that anyone submitting written comments also include a diskette containing an electronic version, preferably in Word or WordPerfect, of the written comments with the submission. Also, it is requested (but not required) that anyone submitting oral testimony at the public hearing provide a copy of any prepared text to the stenographer at the hearing.

Interested persons may obtain a copy of the proposed amendments through the following methods:

1. The proposed rule amendments may be requested from the Department by e-mailing lmcgee@dep.stat.nj.us, or by telephoning (609) 777-1345.
2. The proposed amendments may be downloaded electronically from the Department's Air Quality Regulations web site at:
<http://www.state.nj.us/dep/aqm/>.
3. The proposed amendments may be inspected during normal office hours at the Department's Public Information Center at 401 E. State Street in Trenton, or at one of the Department's Regional Enforcement Offices at the following locations:

Central Regional Office
Horizon Center
Route 130, Bldg. 300
Robbinsville, NJ 08625-0407

Metropolitan Region:
2 Babcock Place
West Orange, NJ
07052-5504

Northern Region:
1259 Route 46 East, Building 2
Parsippany, NJ 07054-4191

Southern Region:
20 East Clementon Road
3rd Floor, Suite 302
Gibbsboro, NJ 08525-1175

3. The proposed amendments may be inspected at one of the following public libraries:

Trenton Public Library
120 Academy Street
Trenton, NJ 08608

Atlantic City Public Library
1 North Tennessee Avenue
Atlantic City, NJ 08401

Newark Public Library
5 Washington Street

Alexander Library
Rutgers University

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Newark, NJ 07102-0630

169 College Avenue
New Brunswick, NJ 08901

Camden Free Public Library
418 Federal Street
Camden, NJ 08103

New Brunswick Free Public
Library
60 Livingston Avenue
New Brunswick, NJ 08901

Joint Free Public Library
Morrison and Morris County
1 Miller Road
Morrison, NJ 07960

4. The proposed rule amendments may be requested from the Department by e-mailing lmcgee@dep.state.nj.us, or by telephoning (609) 777-1345.

The agency proposal follows:

Summary

The New Jersey Department of Environmental Protection (Department) is proposing to amend N.J.A.C. 7:27-21, Emission Statements, and to make related amendments to N.J.A.C. 7:27-22, Operating Permits, and N.J.A.C. 7:27A-3, Civil Administrative Penalties and Requests for Adjudication Hearings. These amendments would enhance New Jersey's stationary source emissions inventory primarily by requiring the reporting of emissions of additional air contaminants. The amendments would also improve the implementation of the Emission Statement Program.

The emission statements rules classify the facilities subject to their requirements into two categories: 1) those with higher potentials to emit (higher PTE facilities); and 2) those with lesser potentials to emit (lesser PTE facilities). A higher PTE facility is one that has a potential to emit volatile organic compounds (VOC) of 25 tons per year or greater, or a potential to emit any of the other air contaminants listed in Table 1 at N.J.A.C. 7:27-21.2 in quantities equal to or greater than the applicable reporting threshold. A lesser PTE facility is one that has a potential to emit volatile organic compounds (VOC) of less than 25 tons per year and a potential to emit each of the other air contaminants listed in Table 1 at N.J.A.C. 7:27-21.2 in quantities lower than the applicable reporting threshold. The amendments would increase the reporting requirements for higher PTE facilities more than for lesser PTE facilities and/or make the new requirements effective sooner for higher PTE facilities than for lesser PTE facilities.

The proposed amendments which would increase the number of air contaminants which must be reported are as follows:

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- 1. PM_{2.5} and NH₃:** The Department is proposing to amend N.J.A.C. 7:27-21.3, General provisions, to require higher PTE facilities to report their facility-wide PM_{2.5} and NH₃ emissions in their annual emission statements, beginning with the emission statements for reporting year 2002 which are submitted in 2003.
- 2. CO₂ and CH₄:** The Department is proposing to amend N.J.A.C. 7:27-21.3, General provisions, to require higher PTE facilities to report emissions of two greenhouse gases (GHGs), carbon dioxide (CO₂) and methane (CH₄), beginning with the emission statements for reporting year 2002 which are submitted in 2003.
- 3. Toxic Air Pollutants:** The Department is also proposing to amend N.J.A.C. 7:27-21.3, General provisions, to require reporting of the 36 toxic air pollutants (TAPs) listed in proposed new N.J.A.C. 7:27-21, Appendix 1, Table 1, Toxic Air Pollutants To Be Reported In Emission Statements. Reporting of facility-wide emissions of each TAP would be required of higher PTE facilities beginning with the emission statements for reporting year 2002 which are submitted in 2003; and of lesser PTE facilities, beginning with the emission statements for 2004 which are submitted in 2005. However, a facility would not have to report its emissions of any TAP, if the facility's potential to emit that air contaminant is less than the reporting threshold given for that contaminant in N.J.A.C. 7:27-8, Appendix 1, Table B.

Improvements to the implementation of the Emission Statement Program include the requirement at N.J.A.C. 7:27-21.2, Applicability, for emission statements to be submitted electronically beginning with emission statements for reporting year 2002, submitted in 2003 (unless the Department grants an exemption), so that the efficiencies of electronic transmittal and data management can be realized. Improvements also include a number of clarifications made throughout to explain more precisely and fully the emission reporting procedures to be followed. The amendments would also help avoid confusion and misunderstanding by revising the definitions of a number of terms used in N.J.A.C. 7:27-21, Emission Statements, so that they are identical or more consistent with the definition of these same terms in other subchapters in Chapter 27, in the Department's Emission Statement Guidance Document, or in EPA documents.

A section-by-section listing of the amendments being proposed to N.J.A.C. 7:27-21, Emission Statements, and of the related amendments to N.J.A.C. 7:27-22, Operating Permits, and N.J.A.C. 7:27A-3, Civil Administrative Penalties and requests for Adjudicatory Hearings, follows:

N.J.A.C. 7:27-21.1 Definitions

Definitions of the following new terms which are proposed to be used in the Emission Statement rules, are proposed at N.J.A.C. 7:27-21.1.

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The amendments would add a definition of the new term “activity rate/throughput,” based on the meaning given this term by the United States Environmental Protection Agency (EPA) in its proposed Consolidated Emissions Reporting Rule published in the Federal Register (65 FR 33268-80) on May 23, 2000. The proposed definition explains that this term refers to a measurable factor or parameter that relates directly or indirectly to the emissions of a source operation or a facility during a given time period (for example, hour, day, or year).

The amendments would add a definition of the new term “ammonia” or “NH₃” which explains that ammonia is a colorless, pungent gas at standard conditions, having a molecular composition of one nitrogen atom and three hydrogen atoms. NH₃ is a precursor linked to the formation of PM_{2.5} in the atmosphere.

The amendments would add a definition of the term “carbon dioxide” or “CO₂,” which is the same as the definition of this term at N.J.A.C. 7:27-9, Sulfur in Fuels.

The amendments would add a definition of the new term “Emission Inventory Improvement Program” or “EIIP.” This term refers to the program carried out by air pollution control officials to improve the accuracy and quality of emissions information reported by facilities to the States and by the States to the EPA. This program has produced a guidance document which is a compendium of preferred and alternative emission estimation methods.

The amendments would add a definition of the term “emission point,” which is the same as the definition of this term in the Department’s Emission Statement Guidance Document.

The amendments would add a definition of the new term “Emission Statement Guidance Document,” which explains that this term refers to the 1999 Emission Guidance Document, and any addendum or subsequent revision, which provides information to assist an owner or operator of a facility subject to N.J.A.C. 7:27-21 with the process of completing, certifying and submitting an Emission Statement. This definition also provides the information that the document is published at the Department’s website and is updated annually to incorporate the Department’s latest guidance regarding Emission Statement policies, reporting procedures and format.

The amendments would add a definition of the new term “insignificant source operation,” which is defined to mean a source that is not a “significant source operation” a definition of which is also proposed herein.

The amendments would add a definition of the new term “maximum design capacity” which refers to the maximum capability of a source operation to consume a process input or to generate a process output.

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The amendments would add a definition of the new term “methane” or “CH₄,” which defines the term as a colorless, odorless, flammable gas at standard conditions, having a molecular composition of one carbon atom and four hydrogen atoms.

The amendments would add a definition of the new term “NAICS code” and delete the existing term “SIC code.” “NAICS” is an acronym for “North American Industrial Classification System” and refers to the new international system of codification to be used for classifying industrial processes, adopted in 1997 by the U.S. Department of Commerce. The NAICS system replaces the Standard Industrial Classification (SIC) code system as a means for classifying a facility’s industrial processes.

The amendments would add a definition of the term “operating time,” which is the same as the definition proposed for this term in the proposed amendments to N.J.A.C. 7:27-8, published on September 17, 2001, at 33 N.J.R. 3290(a). The definition would explain that the term refers to the amount of time a control apparatus is in use.

The amendments would add a definition of the term “ozone season,” which is the same as the definition of this term at N.J.A.C. 7:27-30.2.

The amendments would add a definition of the new term “PM_{2.5}” which would explain that this term refers to a class of air contaminants which includes all particulate matter having an aerodynamic diameter less than or equal to a nominal 2.5 microns.

The amendments would add a definition of the new term “reasonably available” to clarify the meaning these words have when used at N.J.A.C. 7:27-21.6 to describe methods of quantification. This term refers to a type of emission quantification methodology, which utilizes data or information that is already in the possession of a person at the time of reporting or which can be obtained by such person through public sources.

The amendments would add a new term “reporting year,” which refers to the temporal period during which the emissions reported in an Emission Statement are released into the atmosphere.

The amendments would add a definition of the new term “significant source operation.” In respect to a facility which is subject to the operating permit requirements of N.J.A.C. 7:27-22, this term would have the same meaning as is defined for the term “significant source operation” at N.J.A.C. 7:27-22.1. But in respect to a facility which is not subject to the operating permit requirements of N.J.A.C. 7:27-22, this term would have the same meaning as is defined for the term “significant source operation” at N.J.A.C. 7:27-8.1, except that, for Emission Statement purposes, the term would also include “grandfathered” sources, that is, older sources that are exempt from permitting under N.J.A.C. 7:27-8 because they were built and began operating prior to the effective date of applicable permitting rules and have not since been modified.

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The amendments would add a definition of the new term “source emission testing,” which is the same as the definition of this term at N.J.A.C. 7:27-22.1.

The amendments would add a definition of the new term “State implementation plan (SIP),” which is the same as the definition of this term in N.J.A.C. 7:27-8.1.

The amendments would add a definition of the new term “State Plane Coordinates” (SPC). This term refers to a geographic reference system in the horizontal plane, developed and maintained by the Department, which describe the position of points or features with respect to other points in New Jersey.

The amendments would add a definition of the new term “subject to operating permit requirements” which would explain that, when used with respect to a facility, either the owner or operator of the facility is required to obtain an operating permit for the facility under N.J.A.C. 7:27-22 or has voluntarily applied for an operating permit for the facility and an operating permit has been issued by the Department for the facility.

The amendments would add a definition of the new term “submittal year” to mean the calendar year in which an Emission Statement is required to be submitted.

The amendments would add a definition of the new term “toxic air pollutant” or “TAP,” which defines this term as any air contaminant listed at proposed new N.J.A.C. 7:27-21, Appendix 1, Table 1.

The amendments would revise the definitions of the following terms at N.J.A.C. 7:27-21.1 to make them consistent with the definitions of the same terms found in other subchapters in N.J.A.C. 7:27.

The amendments would revise the definition of the term “AP-42” to make it consistent with the definition of the same term at N.J.A.C. 7:27-8.1, as that definition is proposed to be amended in the proposal published on September 17, 2001, at 33 N.J.R. 3290(a), except that the reference to the EPA Technology Transfer Bulletin Board is omitted, since that bulletin board is no longer in operation.

The amendments would revise the definition of the term “carbon monoxide” to make it consistent with the definition of this term at N.J.A.C. 7:27-16.1 and 19.1.

The amendments would revise the definition of the term “delivery vessel” to make it consistent with the definition of this term at N.J.A.C. 7:27-8.1 and 16.1.

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The amendments would revise the definition of the term “distillate of air” to remove carbon dioxide from the list of chemical species that are classified as distillates of air. This change would have the effect of modifying the meaning of the term “air contaminant.” In the definition of “air contaminant,” distillates of air are specifically excluded from being air contaminants. Removing carbon dioxide from the list of chemical species that are distillates of air therefore would have the consequence of classifying carbon dioxide as an air contaminant.

The amendments would revise the definition of the term “facility” to make it consistent with the definition of this same term at N.J.A.C. 7:27-8.1.

The amendments would revise the definitions of the terms “fugitive emissions” and “source operations” to make them consistent with the definitions of these term at N.J.A.C. 7:27-22.1.

The amendments would revise the definition of the term “operating certificate” to make it consistent with the definition of this term at N.J.A.C. 7:27-8.1, as that definition is proposed to be amended in the proposal published on September 17, 2001, at 33 N.J.R. 3290(a).

The amendments would revise the definitions of the terms “person” and “total suspended particulate matter (TSP)” to make them consistent with the definition of these terms at both N.J.A.C. 7:27-8.1 and 22.1.

The amendments would revise the definition of the term “PM₁₀” and make it consistent with the definition of this term at N.J.A.C. 7:27-18.1.

Additionally, the amendments would revise the definition of the term “SCC code” to make it consistent with the Federal definition of this term (see EPA document "AIRS Facility Subsystem Source Classification Codes and Emission Factor Listing for Criteria Air Pollutants" EPA 450/4-90-003, which may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia, 22161, (703) 487-4650 or the Superintendent of Documents, Government Printing Office, Washington, D.C., 20402, (202) 783-3228).

The amendments would replace the definition of the term “responsible official” with an explanation that this term has the same meaning as defined for the term at N.J.A.C. 7:27-1.4. The definitions of “responsible official” at N.J.A.C. 7:27-1.4 and 21.1 are currently identical, but this amendment makes it clear to a reader of N.J.A.C. 7:27-21.1 that this is the case.

The amendments would revise the definition at N.J.A.C. 7:27-21.1 of the term “seasonal throughput” to incorporate use of the proposed new term “activity rate/throughput.” Instead of having the meaning of “the percent of the total yearly operating activity” within a given time period or season, the amended term’s meaning would be restated as “the activity rate/throughput” for a given season. Also, instead of redundantly listing the dates of the various seasons for which reporting may

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be required under the Emission Statement program, since these dates are given in the definitions of the specific seasons, the amended definition would refer to the seasons by name (for example, the peak ozone season).

The amendments would revise the definition of the term “sulfur dioxide” or “SO₂” to make it consistent with the definition of this term at N.J.A.C. 7:27-9.1 and 10.1.

This amendments would delete the definition of the terms “process level,” “process rate” and “temporary operating certificate,” as these terms would no longer be used in the amended subchapter.

The amendments would relocate the definition of the term “Department” within N.J.A.C. 7:27-21.1 to place it in alphabetical order.

The amendments would delete the definition of the term “emissions information.” Instead, the amendments would incorporate, with revisions, the information contained in the definition at N.J.A.C. 7:27- 21.5, Required contents of an Emission Statement.

Finally, the amendments would add a period after each letter in the defined acronym “USC,” so that it is given as “U.S.C.,” to make it stylistically consistent with the presentation of this acronym in the definitions of “federally enforceable” and “operating permit” at N.J.A.C. 7:27-21.1.

N.J.A.C. 7:27-21.2 Applicability

The amendments would delete text in subsection (a) which pertains to the applicability of the subchapter to owners and operators and would utilize this subsection solely to specify to which facilities the subchapter applies. The responsibilities that accrue to an owner or operator of a facility to which the subchapter applies would be specified instead at N.J.A.C. 7:27-21.3, General Provisions, and elsewhere in the subchapter. Similarly the existing text in subsection (a) which set forth the requirement to submit Emission Statements is proposed to be deleted and this requirement would be specified instead at N.J.A.C. 7:27-21.3, General provisions. Also wording is proposed to be added to make it clear that the reporting thresholds referenced are those that are given in Table 1 at N.J.A.C. 7:27-21.2.

Table 1, Air Contaminant Reporting Thresholds, which is referred to in subsection (a), is also proposed to be amended. The amendments would add the new criteria pollutant PM_{2.5} and ammonia (NH₃), a precursor to PM_{2.5} formation, to the list of air contaminants in Table 1 and would establish 100 tons per year as the reporting threshold for each of these contaminants. The consequence of these amendments to Table 1 is that any facility that has a potential to emit 100 tons per year of either PM_{2.5} or NH₃ , and which is not already subject to the Emission Statement rule on other bases, would become subject to the subchapter.

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Subsection (b) is proposed to be amended to establish that the subsection pertains to the determination of not only a facility's emissions potential to emit (as is required for the purposes of N.J.A.C. 7-21.2(a)), but also its actual emissions (as may be required for the purposes of N.J.A.C. 7-21.3(a)). The subsection is reorganized so as to list each factor to be included in a determination of potential or actual emissions in its own separate paragraph. Also in new paragraph (b)2, a redundant reference to N.J.A.C. 7:27-16.2 is proposed to be deleted, and an obsolete reference to N.J.A.C. 7:27-16.2(m) is proposed to be corrected to read N.J.A.C. 7:27-16.2(j).

N.J.A.C. 7:27-21.3 General provisions

The amendments to N.J.A.C. 7:27-21.3(a) would subdivide existing subsection (a) into two subsections, (a) and (b). In new subsection (a), the amendments would delete the introductory clause that provides direction, through a reference to N.J.A.C. 7:27-21.2(b), as to how emissions associated with delivery vessels are to be accounted for in determining a facility's emissions, as this direction would be given in the amendments at N.J.A.C. 7:27-21.3(h). The amendments at new subsection (a) would establish that owners or operators of facilities subject to this rule are required to submit annual Emission Statements, and that these Emission Statements shall report the facility's actual emissions.

In new subsection (b), the amendments would establish that Emission Statements must include the information required at N.J.A.C. 7:27-21.5 and would revise the specification of which air contaminants are required to be reported in an Emission Statement. Fewer air contaminants would be specified to be reported by lesser PTE facilities, relative to those specified for higher PTE facilities.

In paragraph (b)1, which would pertain to lesser PTE facilities, the requirement for such facilities to report emissions information for VOC, NO_x and CO would be retained, but beginning with the Emission Statements submitted for reporting year 2004 (to be submitted in 2005), these facilities would also be required to submit facility-wide emissions information for each of 36 toxic air pollutants, provided that the facility has a potential to emit the pollutant that is equal to or greater than its reporting threshold, as given in N.J.A.C. 7:27-8, Appendix 1, Table B, Reporting and SOTA Thresholds for HAPs. The 36 toxic air pollutants are listed in N.J.A.C. 7:27-21, Appendix 1, Table 1, which is proposed to be added to this subchapter.

In paragraph (b)2, which would pertain to higher PTE facilities, the requirement for such facilities to report emissions information for a larger number of air contaminants would be established. First, such facilities would be required to report actual emissions for each of the air contaminants listed in Table 1 at N.J.A.C. 7:27-21.2. Beginning with the Emission Statements for reporting year 2002 (to be submitted in 2003), this requirement would include reporting of emissions of PM_{2.5} and NH₃, the two air contaminants being proposed herein to be added to Table 1. Secondly, beginning with the Emission Statements for reporting year 2002 (to be submitted in 2003), such facilities would be required to report actual emissions of two greenhouse gases: carbon dioxide (CO₂) and methane

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(CH₄). Thirdly, also beginning with the Emission Statements for reporting year 2002 (to be submitted in 2003), such facilities would be required to report actual emissions of each of the 36 toxic air pollutants proposed to be listed in N.J.A.C. 7:27-21, Appendix 1, Table 1, provided that the facility has a potential to emit the pollutant that is equal to or greater than its reporting threshold, as given in N.J.A.C. 7:27-8, Appendix 1, Table B, Reporting and SOTA Thresholds for HAPs.

Proposed new subsection(c) would set forth a procedural clarification. It would establish that once an Emission Statement has been submitted for a facility, the facility's owner or operator is required to continue submitting an Emission Statement to the Department on an annual basis, in every subsequent submittal year unless two conditions are met: 1) by February 1 of the submittal year the owner or operator submits a claim of non-applicability to the Department and 2) by April 1 of the submittal year the Department concurs with the owner or operator that the requirements of N.J.A.C. 7:27-21, Emission Statements, no longer apply to the facility.

Existing subsection N.J.A.C. 7:27-21.3(b) is proposed to be recodified as N.J.A.C. 7:27-21.3(d), with amendments. New subsection (d) would be amended to clarify the conditions under which a facility is considered in violation of N.J.A.C. 7:27-21, Emission Statements, and that civil and/or criminal penalties could be levied in response for such violation. An owner or operator of a facility who fails to submit an Emission Statement that is required under N.J.A.C. 7:27-21, Emission Statements, or submits an Emission Statement with incomplete information, or otherwise fails to comply with any provision of the subchapter, shall be subject to civil penalties and applicable criminal sanctions. The amendments also clarify that if there is more than one person who is an owner or operator of a facility, all owners and operators are jointly and severally liable for such civil and criminal penalties.

Existing N.J.A.C. 7:27-21.3(c) through (e) are proposed to be recodified as N.J.A.C. 7:27-21.3 (e) through (g), without any change in text.

Existing N.J.A.C. 7:27-21.3(f) is proposed to be recodified as N.J.A.C. 7:27-21.3(h) and amended to clarify in greater detail how emissions are to be determined for the purpose of emissions reporting as required pursuant to N.J.A.C. 7:27-21, Emission Statements. New paragraph(h)1 would establish that all emissions should be taken into consideration, including: emissions from sources that are classified as significant source operations, insignificant sources, and exempt activities under the permitting rules at N.J.A.C. 7:27-8 and 22; emissions associated with delivery vessel loading operations (as already specified in the current rule); emissions from any delivery vessel that is to be considered as a stationary storage tank (as also already specified in the current rule); and fugitive emissions. The amendments would also delete from the rule the obsolete reference at subparagraph (h)iii to N.J.A.C. 7:27-16.2(m) and replace it with the updated citation, N.J.A.C. 7:27-16.2(j).

Proposed paragraph(h)2 would, however, establish that notwithstanding paragraph(h)1 some types of emissions may be omitted from an Emission Statement. These are certain emissions

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associated with delivery vessels (as already specified in the current rule), and emissions from certain sources described as “otherwise accounted-for sources.” These sources of emissions are ones that the Department accounts for in the emissions inventory submitted by the State to the EPA for inclusion in the State Implementation Plan, other than by reliance on information in Emission Statements. Examples of such sources include the painting of structures at the facility and vehicles driven at the facility. “Otherwise accounted-for sources” are listed and identified as not to be reported in the Department’s Emission Statement Guidance document.

N.J.A.C. 7:27-21.4 Procedure for submitting an Emission Statement

The amendments would add a new subsection (a) which sets forth procedures that apply to Emission Statements for reporting year 2001 or earlier; would recodify existing subsections (a), (c) and (d) as paragraphs (a)1 through 3; and would delete existing subsection (b) and relocate the address set forth therein to proposed new subsection (c). In new subparagraph (a)1i, the word “applicable” would be replaced with “subject” to clarify that the provision pertains to a facility that is subject to this subchapter. In new paragraph (a)2, the word “obtainable” would be replaced with the word “obtained,” since the form must be obtained before it can be submitted; and the existing reference to “(b) above” would be replaced with “(c) below,” to reflect the proposed relocation of the address currently given in subsection (b). In new paragraph (a)3, the word “person” would be replaced with “owner or operator,” to reflect that is the responsibility of a facility’s owner or operator to submit an Emission Statement. Also in new paragraph (a)3, the word “report” would be replaced by the term, “Emission Statement,” so that the subchapter consistently refers to the document to be submitted by the same term. Finally, the last sentence in existing subsection (d), which sets forth a requirement for certification of an Emission Statement, is proposed to be deleted, and not recodified as part of new paragraph(a)3, because this requirement is already set forth at N.J.A.C. 7:27-21.5, Required contents of an Emission Statement, and would be redundant here.

The amendments would add a new subsection (b) that sets forth procedures which would apply to all Emission Statements submitted for reporting year 2002 and thereafter. Proposed new paragraph (b)1 would require for reporting year 2002 or later that an Emission Statement be submitted electronically using the Remote Access Data Information User System (RADIUS) software or its successor software, unless prior permission to submit a paper Emission Statement is obtained from the Department pursuant to the hardship provision proposed in new subsection (d). Proposed new paragraph (b)2 would establish the procedures for submitting an Emission Statement if a claim of confidentiality is being asserted. Proposed new paragraph (b)3 would establish the due dates for Emission Statement submittals.

The amendments would add a new subsection (c) which would inform the public that the Department’s Bureau of Air Quality Planning is its point of contact for the Emission Statement Program. Paragraph (c)1 would establish that Emission Statements are to be submitted to the Bureau. Paragraph (c)2 would provides the address of a web page, maintained by the Bureau, at which the

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Department's Emission Statement Guidance Document, forms, and other information may be viewed, and from which these documents may be downloaded. Paragraph (c)3 would explain that the Bureau may be contacted for instructions on how to download a copy of RADIUS and for answers to questions, and provides the Bureau's telephone number, e-mail address, and mailing address.

The amendments would add a new subsection (d) which would establish the procedures to be followed by an owner or operator of a facility if electronic submittal of the Emission Statement would present a hardship and he or she wishes to request the Department's approval to submit an Emission Statement on paper. It also provides the criteria that the Department will use in determining whether or not to approve such a request.

The amendments would clarify existing subsection (e) which references the definition of the term "emissions information." This amended provision would no longer provide a citation to the definition. Instead it would reference N.J.A.C. 7:27-1.18, which states that emissions information as defined at N.J.A.C. 7:27-1.4 is not confidential. This would result in the current meaning of subsection (e) being retained, as the definition of "emissions information" currently in N.J.A.C. 7:27-21.1 and 1.4 are identical.

N.J.A.C. 7:27-21.5 Required contents of an Emission Statement

In subsection (a), the amendments, to reflect that it is the responsibility of a facility's owner or operator to submit an Emission Statement, would replace the word "person" with "owner or operator," and would replace the word "report" with "Emission Statement," so that the subchapter consistently refers to the document to be submitted by the same term. The amendments would also reorganize the subsection to set forth, as a list, the items which must be included in an Emission Statement. The current provisions at N.J.A.C. 7:27-21.5(b)7 require that the reporting year for which the Emission Statement is being submitted must be indicated on the Emission Statement; the amendments would recodify this requirement at N.J.A.C. 7:27-21.5(a)1. The current provisions of paragraph (a)1 would be recodified as paragraph (a)2 and the reference to N.J.A.C. 7:27-21.7 contained therein would be changed to N.J.A.C. 7:27-21.8 to reflect the proposed recodification of that section. The current provisions of paragraph (a)2 would be recodified as paragraph (a)3, and the phrase "certifying individual" is proposed to be replaced by the phrase "responsible official certifying the Emission Statement." Also, the provisions of paragraph (a)3 are proposed to be expanded, to indicate that the responsible official's name, title, and mailing address is provided in an Emission Statement, as well as the official's telephone number.

The amendments at subsection (b) would revise the current list of facility identification information which must be provided in an Emission Statement. The amendments would delete the requirement currently at paragraph (b)2 to submit the facility's parent company name as the Department does not intend to seek this information. Instead at paragraph(b)2, the amendments would combine current paragraphs (b)3, 4 and 6 into a merged category of information, which must be submitted, described as "facility location description." This merged category would not only include the facility's street address (currently required pursuant to paragraph (b)3), mailing address (currently required pursuant to paragraph (b)4), and the facility's longitude and latitude or its State Plane

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coordinates (currently required pursuant to paragraph (b)6), but also the county in which the facility is located.

The amendments in subsection (b) would require that four new classes of identification information should be included in an Emission Statement. These include facility ID number (proposed in paragraph (b)3), organization type (for example, corporation, partnership, municipality) (proposed in paragraph (b)4), whether or not the facility is a major facility (proposed in paragraph (b)6), and it's the facility's Employer Identification Number (proposed in paragraph (b)7). The amendments would modify paragraph (b)5 by changing "SIC code(s)" to "NAICS code(s)," to reflect the fact that the United States Department of Commerce has published a new North American Industrial Classification System code, to replace the Standard Industrial Classification (SIC) code system previously used as a means for classifying industrial processes. Finally, the amendments would merge the classes pertaining to contact information in existing paragraphs (b)9 and 10 into paragraph (b)9 and thereby create an enlarged class which requires the reporting of contact information for the facility's owner(s) or operator(s) and for its Emission Statement contact person.

The amendments would restructure the organization of N.J.A.C. 7:27-21.5 (c) through (h) and modify these requirements. The existing subsections (c) and (d) contain provisions that are almost identical with those at subsections (e) and (f) and at subsections (g) and (h), except that subsection (c) and (d) pertain to volatile organic compounds (VOC) and oxides of nitrogen (NO_x), subsection (e) and (f) pertain to carbon monoxide (CO), and subsections (g) and (h) pertain to sulfur dioxide (SO_2), total suspended particulate matter (TSP), particulate matter (PM_{10}), and lead (Pb). Subsections (c) through (h) are proposed to be deleted, as well as Table 2 (Codes for Methods of Quantifying Actual Emissions) and Table 3 (Control Apparatus Identification Codes), which are referenced in subsection (c) through (h). The specific codes to be used in completing Emission Statement forms are more appropriately provided in the Emission Statement Guidance Document, rather than in a promulgated rule. Subsections (c) through (h) are proposed to be replaced with new subsections (c) through (f). Each of the four proposed replacement subsections would pertain to all air contaminants which must be reported on Emission Statements. In addition, the proposed amendments would delete subsection (i) which provides a simplified reporting alternative to sources with a low potential to emit, and would replace this with a new subsection (g) which serves the same function.

Proposed new subsection (c) would require that an Emission Statement include information identifying all of a facility's sources of emissions. This would include information on (i) each of its significant source operations, (ii) each of its insignificant source operations, (iii) the sources of fugitive emissions at the facility that are not associated with any source operation, and (iv) the facility's batch production plants (if the facility has one or more Batch Production Plant Permits).

Proposed new subsection (d) would set forth the information pertaining to each source operation, identified pursuant to N.J.A.C. 7:27-21.5 (c), which is required to be provided in an Emission Statement. This would include information on (i) each control apparatus serving a significant source operation, (ii) each of the facility's emission points, (iii) the class(es) or specie(s)

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of air contaminant emissions (for example, VOC, SO₂) that each source operation has the potential to emit, and (iv) the source(s) of fugitive emissions associated with each source operation.

Proposed new subsection (e) would establish the air contaminants for which emissions information must be provided in an Emission Statement at the facility-wide level and at the source operation level. Paragraph (e)1 specifies the air contaminants for which facility-wide emissions information must be provided (that is, all facilities submitting Emission Statements are required to report facility-wide emissions for each air contaminant for which the facility is required to provide emissions information pursuant to the provisions proposed at N.J.A.C. 7:27-21.3(b)). Paragraph (e)2 specifies the air contaminants for which emissions information must be provided at the source operation level (that is, higher PTE facilities are required to report source level emissions for each air contaminant listed in Table 1 at N.J.A.C. 7:27-21.2, except for PM_{2.5} and ammonia; lesser PTE facilities are required to report source level emissions only for NO_x, VOC and CO) .

Proposed new subsection (f) would list the types of emissions information, which must be included in an Emission Statement. Such information includes the amount of each air contaminant emitted, the parameters used in calculating the facility's emissions, the method used to quantify the facility's emissions, the emission factors used to determine actual emissions, the units in which emissions are reported, activity rate and other operational information, and for VOC, NO_x and CO, a projection of the amount of increase or decrease in emissions expected in the future.

The reporting alternative provided in existing N.J.A.C. 7:27-21.5(i) would be recodified in proposed new subsection (g), with amendments for clarification. The alternative provides simplified requirements that an owner or operator may elect to use for a source operation with minimal emissions. Subsection (g) would reference its Table 2, Applicability Criteria for Simplified Reporting, which would establish criteria amounts of specific air contaminants. If a source operation has a potential to emit an air contaminant which is equal to or less than the applicable criteria amount, the owner or operator may report the source's potential to emit as its actual emissions of the air contaminant.

The amendments would recodify and revise existing subsection (j) as subsection (h) and revise the requirements for reporting fugitive emissions. The amendments would clarify how fugitive emissions are to be treated. It would establish that fugitive emissions associated with a specific source operation are to be considered as part of that source's emissions. It would also establish that with respect to facility-wide reporting, fugitive emissions not associated with a specific source operation should be aggregated and reported as the facility's fugitive emissions. The amendments also clarify that a facility's aggregated fugitive emissions shall be added to its total emissions at the source operation level to determine the facility's total emissions.

The amendments would recodify, with no change in text, the existing subsection (k) as subsection (i).

N.J.A.C. 7:27-21.6 Quantification methods to be used for quantifying actual emissions

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Proposed new N.J.A.C. 7:27-21.6 describes the methods to be used for quantifying the actual emissions for the purpose of reporting those emissions in an Emission Statement, and would include N.J.A.C. 7:27-21.5(l) recodified as subsection (a), with amendments.

Proposed subsection (a) deletes the phrase “for a source operation,” since the quantification principals set forth in the section apply to facility-wide emissions reporting, as well as source level reporting. The amendments would reorganize subsection (a) so as to list separately the provisions that apply to facilities with a permit or certificate which specifies a method for quantifying actual emissions and those that do not. Proposed new paragraph (a)1 would require a person preparing an Emission Statement to use the method(s) for quantifying actual emissions specified in a permit or certificate, whether it is issued pursuant to N.J.A.C. 7:27-8, Permits and Certificates for Minor Sources, or pursuant to N.J.A.C. 7:27-22, Operating Permits. Proposed new paragraph (a)2 would require use of the best available quantification method where no quantification method is set forth in a permit or certificate. This paragraph would also provide guidance on how to determine what constitutes the best available quantification method. The best available method would be the method which is reasonably available, as that term is defined at N.J.A.C. 7:27-21.1, and which is highest ranked in proposed new Table 3, Ranking of Methods for Quantifying Actual Emissions, unless a different method is selected pursuant to proposed new subsection (b).

New subsection (b) would list the conditions under which a facility may use a lesser ranked method for quantifying actual emissions for an Emission Statement. New paragraph (b)1 would indicate that a lesser ranked quantification method may be selected if the owner or operator demonstrates that the lesser ranked method would provide a more accurate quantification of emissions than would the highest ranked reasonably available quantification method. New paragraph (b)1 would also indicate that a lesser ranked quantification method may be selected if use of the method is consistent with EPA’s Emissions Inventory Improvement Plan Guidance Document.

New subsection (c) would set forth the requirement to justify in writing the selection of a lesser-ranked method pursuant to subsection (b) , and would indicate the items that must be included in such a justification.

N.J.A.C. 7:27-21.7 Recordkeeping requirements

The amendments would recodify existing N.J.A.C. 7:27-21.6 as N.J.A.C. 7:27-21.7. In subsection (a), the amendments would clarify that the recordkeeping requirements apply to each Emission Statement submitted to the Department and that these records must be maintained for five years from the date the submittal of the Emission Statement is due. The amendments would replace the phrase “on the operating premises” with the phrase “at the facility” to make the usage of terminology consistent with other parts of this subchapter. The amendments would also add at new paragraph (a)3, a new item to the list of records that must be maintained at the facility: if applicable, written justification, required pursuant to N.J.A.C. 7:27-21.6(c), for the selection of a lesser ranked method as the best available method for quantifying emissions.

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Proposed new subsection (c) would require an owner or operator to provide a copy of any record specified in N.J.A.C. 7:27-21.7(a) to the Department, if the Department makes a written request for the information.

N.J.A.C. 7:27-21.8 Certification of information

The amendments would recodify existing N.J.A.C. 7:27-21.7 as N.J.A.C. 7:27-21.8. The amendments would clarify subsection (a), by substituting the term “owner or operator” for “person,” to reflect that it is the responsibility of an owner or operator of a facility to submit its Emission Statement. The amendments would also change the word “certificate” to “certification” to correct the use of terminology.

Proposed new subsection (b) would prescribe the procedures to be used in performing a certification, whether the certification is being submitted electronically or on paper. Proposed new subsection (c) would prescribe the procedures to be used certifying submittals made with a claim of confidentiality.

N.J.A.C. 7:27-21.9 Request for extension

The amendments would recodify existing N.J.A.C. 7:27-21.7 as N.J.A.C. 7:27-21.9. The amendments would revise subsection (a), by substituting the term “owner or operator” for “responsible official,” to establish that it is the owner or operator, not the responsible official (if these are different), who is authorized to submit a request for an extension of the due date for an Emission Statement. The amendment would also clarify that the section does not apply to owners or operators who are unable to submit an Emission Statement by the due date but only in cases where it would cause extreme hardship to submit an Emission Statement timely. Also, a reference to N.J.A.C. 7:27-21.4, which contains the provisions pertaining to due dates, is added for the convenience of the reader.

Amendments to subsection (b) would revise the list of information that must be provided in a request for an extension. In paragraph (b)1, the amendments would indicate that the name of the facility and its mailing address are required information, as well as its facility ID number. In paragraph (b)2, the amendments would indicate that the contact person’s name, as well as his or her phone number, is required information. In paragraph (b)3, the amendments would indicate that the responsible official’s name, as well as his or her telephone number, is required information. In paragraph (b)4, the amendments would clarify that its provisions apply only if the Department allows an extension of the due date of the Emission Statement. Paragraph (b)5 is amended by substituting the term “owner or operator” for “responsible official” as it is the owner or operator, not the responsible official (if these are different), who is authorized to submit a request for an extension of the due date for an Emission Statement. Proposed new paragraph (b)6 would establish that certification signed by the responsible official must be included in a request for an extension.

At subsection (c), the address is corrected by replacing “CN” with “P.O. Box,” to reflect the change in the State of New Jersey’s postal system.

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At subsection (d), the amendments would replace the existing subchapter's recommendation for when requests for extensions should be submitted with a firm deadline. The deadline for submitting a request for extending a due date for submitting an Emission Statement on a paper form would become April 1. The deadline for submitting a request for extending a due date for submitting an Emission Statement electronically would become May 1. Proposed subsection (d) also advises facility owners and operators that the Department will not consider a request for an extension received after these due dates.

The amendments would delete existing subsection (e) which allows the submission of a second request to extend the due date for submitting an Emission Statement. Submission of only one timely request for an extension of the due date would be allowed if this provision is adopted.

The amendments would recodify the existing subsection (f) as subsection (e). The amendments would also modify this subsection by inserting the phrase "if granted" to clarify that the Department will only provide a revised due date for submission of an Emission Statement if a request for an extension is granted. In addition, the amendments would insert the modifier "revised" before the word "date" in order to distinguish the new due date allowed in response to a request for an extension from the due date established pursuant to N.J.A.C. 7:27-21.4

Proposed new subsection (f) would advise owners and operators that once the Department has granted an extension of the due date for the submission of an Emission Statement, it will not grant any additional extension for that Emission Statement or any continuance of the initial extension.

The amendments would delete existing subsection (g) which has provided for an automatic one-month extension if the Department does not respond to a request for extension within 10 working days. The Department's intent is that extensions be given only when hardship is demonstrated, and such automatic granting of extensions is inconsistent with this policy.

N.J.A.C. 7:27-21.10 Determination of non-applicability

The amendments would recodify existing N.J.A.C. 7:27-21.9 as N.J.A.C. 7:27-21.10 and revise the section heading from "Notification of non-applicability" to "Determination of non-applicability." Throughout the section the amendments would replace the phrase "notification of non-applicability" with the phrase "claim of non-applicability" to reflect that, while an owner or operator may claim that the rule should no longer apply to a facility, only the Department can make a determination of non-applicability.

The amendments would also divide existing subsection (a) into two subsections, (a) and (b). The amendments would modify the text of subsection (a) to clarify that a claim of non-applicability may be submitted only when a facility is modified such that its potential to emit each of the air contaminants listed in Table 1 at N.J.A.C. 7:27-21.2 is less than the applicable reporting threshold, and that only the owner or operator may submit such a claim. The amendments also would clarify

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that submission of a claim of non-applicability is the procedure to be followed to seek approval from the Department to discontinue the facility's annual submissions of Emission Statements.

Proposed new subsection (b) would establish guidelines for the timing of a submission of a claim of non-applicability. It would not allow an owner or operator to submit such a claim until the facility's potential to emit each of the air contaminants listed in Table 1 at N.J.A.C. 7:27-21.2 has been less than the applicable reporting threshold for a full reporting year. It would explain that owners or operators should submit such a claim only if they wish to discontinue submitting Emission Statements annually. It would establish that the owner or operator must submit a claim no later than February 1 of the submittal year, if he or she wants to obtain approval not to submit an Emission Statement that year. The subsection would update the illustrative example given in current text from one that applies in 1994 and 1995 to one that applies in 2000 and 2001. In addition, the subsection would establish that the Department is under no obligation to respond until the following year, to a claim of non-applicability that is received by the Department after February 1.

The amendments would recodify existing subsection (b) as subsection (c), and would revise the list, set forth in this subsection, of items that must be included in a claim of non-applicability. In paragraph (c)1, the amendments would indicate that the name of the facility, and its mailing address, as well as its facility ID number must be included. In paragraph (c)2, the amendments would indicate that the contact person's name, as well as his or her phone number, must be included. In paragraph (c)3, the amendments would indicate that the responsible official's name, as well as his or her telephone number, must be included. In paragraph (c)4, the amendments would establish that a demonstration must be included which shows that the facility's potential to emit each of the air contaminants listed in Table 1 at N.J.A.C. 7:27-21.2 is less than the applicable reporting threshold and has been so for a full reporting year, and specify that the determination of the facility's potential to emit must take into account the potential to emit of its significant source operations, its insignificant source operations, and its fugitive emissions. In paragraph (c)5, the amendments would require that a claim of non-applicability include a statement as to whether or not the facility is subject to operating permit requirements under N.J.A.C. 7:27-22; and a statement as to whether or not the owner or operator anticipates that conditions at the facility may change so as to increase the facility's potential to emit and cause the facility to become subject again to this subchapter. Proposed new paragraph (c)6 would establish that a certification signed by the responsible official must be included in a claim of non-applicability.

The amendments would recodify existing subsection (c) as subsection (d) and would revise the subsection to correct the address given by replacing the term "CN" with "P.O. Box" in order to reflect the change in the State of New Jersey's postal system.

The amendments would divide existing subsection (d) into two subsections and codify these as new subsections (e) and (f). New subsection (e) would address the Department's response to claims of non-applicability. The subsection would explain the time frame in which the Department intends to respond with its determination as to whether the subchapter no longer applies to a facility. The subsection would also set forth the two criteria that the Department would apply in determining whether it will approve any claim of non-applicability. The Department would not approve a claim

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unless it was satisfied that (i) the facility's potential to emit each of the air contaminants listed in Table 1 at N.J.A.C. 7:27-21.2 is less than the applicable reporting threshold given in Table 1 and has been less than the reporting threshold for at least one full reporting year; and (ii) the facility will not change in the future in a manner such that the facility's potential to emit would again exceed the applicable reporting threshold in Table 1, Air Contaminant Reporting Thresholds, at N.J.A.C. 7:27-21.2, and the facility would therefore be obligated to recommence submission of Emission Statements.

Proposed new subsection (f) would establish that an owner or operator, who has submitted a claim of non-applicability, must nonetheless continue submitting Emission Statements each submittal year, until and unless the Department concurs with the claim of non-applicability by April 1 of a given submittal year and approves the discontinuance of submission of Emission Statements for the facility.

The amendments would delete existing subsection (e), as the provisions set forth therein would instead be incorporated in the revised rule at N.J.A.C. 7:27-21.3(d) and 2.10(b), and would add a new subsection (g) which would clearly establish that, even if the Department approves a claim of non-applicability for a facility, the owner or operator of the facility must recommence submitting Emission Statements for the facility if the facility's potential to emit any air contaminants listed in Table 1 at N.J.A.C. 7:27-21.2 again exceeds the applicable reporting threshold.

N.J.A.C. 7:27-21 Appendix 1

A new subchapter Appendix 1 is proposed, to include a new Table 1, Toxic Air Pollutants To Be Reported In Emission Statements. Table 1 would set forth a list of 36 toxic air pollutants which would be required to be reported in an Emission Statement by any facility that is subject to the emission reporting requirements of N.J.A.C. 7:27-21, Emission Statements, provided that the facility's potential to emit the toxic air pollutant is equal to or greater than the reporting threshold given for that pollutant in N.J.A.C. 7:27-8, Appendix 1, Table B, Reporting and SOTA Thresholds for HAPs (potential to emit).

N.J.A.C. 7:27-22.1 Definitions

In order to be consistent with the usage of terms in the rules at N.J.A.C. 7:27-21, Emission Statements, amendments would delete the definition of the term "emission statement year" in N.J.A.C. 7:27-22.1 and add the new term "reporting year," which is used in the Emission Statement rules and has the meaning defined for the term "emission statement year."

The amendments would add the new term "NAICS code," as it is proposed to be used in the amended text of this subchapter. The term would be defined as this term is proposed to be defined at N.J.A.C. 7:27-21, Emission Statements.

Finally, the amendments would revise the punctuation in the definition of the term "stack or chimney" to make the definition consistent with the definition of this term at N.J.A.C. 7:27-18, 19 and 21.

N.J.A.C. 7:27-22.6 Operating permit application contents

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The amendments would revise paragraph (f)4 to establish that, in an application for an operating permit, the applicant shall include the North American Industrial Classification System (NAICS) code for each production process at the facility.

N.J.A.C. 7:27-22.31 Fees

In subsection (b), the amendments would replace the phrase “emission statement year” with the phrase “reporting year.”

N.J.A.C. 7:27A-3 Administrative Penalties

N.J.A.C. 7:27A-3.2 Definitions

In the second sentence in this section’s introductory paragraph, the amendments would add the word “as” in front of the word “defined,” to convey that the words and terms referred to are to be considered to have the same definitions given for the words and terms in the referenced law and chapter.

In the existing rule, the definition of the term “AAQS” is located out of alphabetical order. The amendments therefore, would relocate the definition from its existing location to its alphabetically correct location at the beginning of the list of terms and definitions.

The amendments would revise the definition of the term “continuous opacity monitor” to be consistent with the definition of the same term at N.J.A.C. 7:27-22.1.

The amendments would update the term “HAP (Table C)” as “HAP (Table B)” to reflect that the referenced table in N.J.A.C. 7:27-8, Appendix 1 has been recodified as Table B. The amendments would also revise the definition of this term to reflect that the items listed in the table are referred to in the table heading as “air contaminants” and that the air contaminants are listed, not defined, in Table B.

The amendments would revise the acronym “NESHAPS” to read in the singular “NESHAP” and the definition of this term is proposed to be revised to make it consistent with the definition of the same term at both N.J.A.C. 7:27-8.1 and 22.1.

The amendments would revise the definition of the term “NSPS” to be consistent with the definition of the same term at both N.J.A.C. 7:27-8.1 and 22.1.

The amendments would restate the acronym “PSDAQ” as the term “PSD” or “prevention of significant deterioration” so as to use the same terminology in this subchapter as is used in N.J.A.C. 7:27-8.1 and 22.1. The definition of the term would be revised to be consistent with the definition of this term at both N.J.A.C. 7:27-8.1 and 22.1, as it is proposed to be revised in these subchapters at 33 N.J.R. 3297(a).

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The amendments would revise the definition of “TXS” to be consistent with the definition of the same term at N.J.A.C. 7:27-16.1.

The amendments would revise the definition of “vapor pressure” to be consistent with the definition of the same term at N.J.A.C. 7:27-16.1, 17.1 and 25.1, and at N.J.A.C. 7:27B-3.

N.J.A.C. 7:27A-3.10 Civil administrative penalties for violation of rules adopted pursuant to the Act

Throughout this section, the amendments would replace all references to “HAP (Table C)” with “HAP (Table B),” to reflect that the referenced table has been recodified in N.J.A.C. 7:27-8. The amendments would also replace all uses of the acronym “PDSAQ” with “PSD,” and all uses of the acronym “NESHAPS” with “NESHAP,” to reflect the change in these defined terms.

The amendments would revise the table in paragraph (m)21 pertaining to penalties for violations of N.J.A.C. 7:27-21, Emission Statements. For the classes “Failure to Submit,” “Failure to Certify,” “Omission of Required Information,” and “Failure to Keep Records,” the citations are proposed to be modified to reflect the recodification of N.J.A.C. 7:27-21 proposed herein. The class “Readily Available” is proposed to be changed to “Failure to Make Records Readily Available” to clarify what needs to be made readily available, and the citation is proposed to be modified to reflect the recodification of N.J.A.C. 7:27-21 proposed herein. A new class “Failure to Timely Submit Copy of Records,” is proposed to reflect new requirements proposed herein at N.J.A.C. 7:27-21.7(c), and penalties are proposed for this class of violation which are the same as those proposed for the three other record-related classes in this paragraph. The class “Failure to Submit Notification of Non-applicability” is proposed to be changed to “Failure to Obtain Department Approval of Claim of Non-applicability, Prior to Discontinuing Submittal,” to clarify what the obligation is that has not been met, and the citation is proposed to be modified to reflect the recodification of N.J.A.C. 7:27-21 proposed herein.

Other Proposed Amendments

In addition to the amendments listed above, a number of other minor amendments are proposed throughout N.J.A.C. 7:27-21 to make its meaning clearer or more precise or to make stylistic improvements. For example, in some cases one preposition or article is proposed to be substituted for another. Certain phrases are proposed to be revised to make exact use of a defined term. The subjects of certain provisions, if currently given in the plural, are proposed to be given in the singular, to make clear that the provision applies even in the case of one. Verb tenses in some cases are changed from the passive to the active voice or from the future to the present tense, such as by replacing the verbal phrase “shall be” with “is.” When a list of items is presented, the proposal would ensure that the next to final item ends in an “and” or “or,” consistent with standard rule writing style. Punctuation is corrected and/or made uniform, particularly to ensure that items in a list (except for the final item in a subsection) end with a semicolon. Also, throughout the amendments both of the words in the phrase “emission statement” are proposed to be initially capitalized, in recognition

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that the term refers to a specific document the Emission Statement Program established pursuant to N.J.A.C. 7:27-21.

Social Impact

The proposed amendments will have positive social impact on the regulated community, the general public, and the Department.

The Department and the general public will benefit from the proposed amendments because additional reporting of information pertaining to particulate, greenhouse gas, and toxic emissions would be required. This information, and the inventories derived from it, would be publicly available and would inform policy debates conducted within the Department and in other venues at the local, State, regional and Federal levels. Better information should result in better policy decisions, which would enhance the health and welfare of all persons affected by those policies.

The Department also anticipates that the amendments would help it meet current and anticipated Federal regulatory obligations and requirements. For example, pertaining to fine particulate emissions, the Department anticipates there being future Federal reporting requirements. On May 23, 2000, the EPA proposed a Consolidated Emissions Reporting Rule published in the Federal Register (65 FR 33268-80). When promulgated, these rules would include emission reporting requirements for fine particulate matter (PM_{2.5}) and ammonia (a precursor to the formation of PM_{2.5}). The reporting required pursuant to these proposed amendments would enable the Department to provide EPA with the PM_{2.5} and ammonia data that the new Federal rule would require.

Also for fine particulate matter, the State could be obligated in the future to prepare a State Implementation Plan for PM_{2.5}. Preparation of such a plan would be required if it is determined that the air quality in one or more areas in the State does not meet the National Ambient Air Quality Standard for PM_{2.5}. The purpose of the plan would be to establish the means for bringing the State into compliance with the standard. The PM_{2.5} and NH₃ data that would be collected pursuant to these proposed amendments would help provide the data necessary for the development of a baseline emission inventory for fine particulate matter on which to base the plan. It would also help the Department identify and characterize significant sources of PM_{2.5} and ammonia, so that effective control measures could be developed and incorporated in the plan. Once a State Implementation Plan for PM_{2.5} is in place, the annual PM_{2.5} and NH₃ emissions data that would be collected pursuant to these proposed amendments would help the Department track the State's progress toward achieving the standard.

The emissions reporting required pursuant to these proposed amendments would also help the Department in meeting its obligations under the Federal regional haze and visibility requirements set forth at 42 U.S.C. §§7491 and 7492 and the Federal regional haze regulations, adopted on July 1, 1999, at 40 CFR Part 51. These Federal rules aim at achieving national visibility goals by 2064, and were adopted pursuant to Section 169 of the Federal Clean Air Act (CAA) (42 U.S.C. §7491). Section 169 calls for the prevention of any future man-made visibility impairment, and the remedying of existing impairment, in "Class 1" areas. The Edwin B. Forsythe National Wildlife Refuge is a Class

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1 area located in New Jersey. Under the Federal rules, states are required to work together regionally to develop regional PM_{2.5} and NH₃ emission inventories.

The new emissions information that would be collected pursuant to the proposed amendments would also provide a societal benefit by helping to determine whether or not persons in the State are being exposed to levels of air contaminants which could adversely affect health. For example, the United States Environmental Protection Agency (EPA), as a result of its initial National Air Toxics Assessment conducted for 1996, has estimated that about 16,600 tons of 33 air toxics were emitted into the air in New Jersey in 1996 from large stationary and area sources, and from on-road and off-road mobile sources. The requirements proposed herein for the annual reporting of emissions of toxic air pollutants will help the Department assess whether or not EPA's estimates are accurate and whether or not initiatives are needed to reduce toxic emissions in order to protect public health and welfare, animal and plant life, and property.

Further, the Department anticipates that the amendments would enable the Department to provide actual emissions information to EPA, so as to assist EPA in its preparation of future National Air Toxics Assessments. EPA prepares these toxic assessments triannually, and EPA relies on states to contribute detailed information for inclusion in the assessment. Until now, the Department only has been able to provide EPA with limited information based on facilities' potentials to emit and stack sampling test data. Thirty-six states currently provide EPA with actual emissions data for air toxics. These amendments would enable New Jersey to also contribute some additional actual emissions information for the upcoming 2002 National Air Toxics Assessment and more extensive actual emissions information for the 2005 National Air Toxics Assessment.

Another beneficial use of the additional emissions data that would be collected pursuant to these amendments would be tracking progress toward air quality goals. The Regional Administrator of EPA, Region 2, and the Commissioner of the Department have entered into a New Jersey Environmental Performance Partnership Agreement, in which they have jointly committed to milestones/objectives and to the measurement of progress toward reaching these milestones/objectives using specified "environmental indicators." The data that would be collected pursuant to these proposed amendments would be valuable in assessing progress toward the plan's "clean air" and "greenhouse gas" goals.

For example, reducing greenhouse gas reductions by 3.5 percent below 1990 levels by 2005 is an objective in the 2002-2004 Performance Partnership agreement. This objective is based on an Administrative Order signed by the Commissioner on March 17, 1998. Emissions of greenhouse gases are believed to be linked to climate change and sea level rise. (See, for example, **The Challenge of Global Warming**, D.A.Abramson, Ed., National Resources Defense Council, Island Press, 1989; or **International Panel on Climate Change (IPCC): Climate Change 1992; The Supplemental Report to the Scientific Assessment**, Cambridge University Press, New York, 1992 or **Climate Change Impacts on the United States: The Potential Consequences of Climate Variability and Change**, National Assessment, Synthesis Team, US Global Change Research Program, Cambridge University Press, 2001.) Reducing greenhouse gas emissions, or at least

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reducing their rate of increase, would help prevent, slow, or put off any adverse consequences that may result.

The Department has undertaken a voluntary approach to achieving these reductions. The reporting of emissions of two greenhouse gases carbon dioxide and methane that would be required pursuant to these amendment would provide the Department with the means to track CO₂ and CH₄ emission trends and to assess the effectiveness of the current voluntary approach in achieving the Department's greenhouse gas reduction goals. Interested members of the public would also be able to assess the data. The emissions information could be among the information used to determine whether continuing with current practices is sufficiently protective of public health and welfare, animal and plant life, and property, or whether other measures (voluntary or mandatory) should also be taken.

The regulated community (including those responsible for preparing Emission Statements, certifying Emission Statements, and submitting Emission Statements) would also benefit from the clarification of Emission Statement policies and procedures that the amendments would afford.

The regulated community would benefit from the proposed amendments which make N.J.A.C. 7:27-21 and 22, and 7:27A-3, more consistent with one another and with other subchapters in N.J.A.C. 7:27. Making the definitions of terms used in these subchapters consistent with definitions of the same terms used elsewhere in Chapter 27 should prevent the confusion and the difficulties of interpretation caused when the same terms have unnecessarily been given different meanings in different contexts.

The Department anticipates benefitting also from the clarification of requirements and procedures. It anticipates that the quality of information submitted in Emission Statements will improve as a result of the enhanced quantification guidance in the amendments. It anticipates that the resulting emission inventories will not only encompass more air contaminants, but will be more accurate, and that they will therefore be a more reliable tool for tracking the State's progress toward achieving the National Ambient Air Quality Standards (NAAQS) for the criteria air pollutants (that is, CO, ozone, particulate, and Pb), including pollutant precursor emissions (that is, NO_x, VOC, and NH₃). The Department also anticipates that it will expend fewer resources in responding to the reduced number of requests for information, because the rules will be more complete and more self-explanatory. It also anticipates some degree of increase in compliance because the responsibilities of parties at facilities subject to Emission Statement requirements would be more fully and clearly set forth.

Economic Impact

The proposed amendments will have a positive economic impact generally for the State as a whole, and for the Department, and will increase the economic burden only marginally for facilities that would be subject to the additional emissions reporting requirements.

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In order to minimize the administrative burden of the Emission Statement Program, both for itself and for affected facilities, the Department has been working with the facilities on a voluntary basis over the past three years to begin to implement electronic reporting. Electronic information management has the potential to reduce the workload (and therefore the cost) entailed for facilities in maintaining, compiling, and submitting emissions data; it also has the potential to reduce the workload (and therefore the cost) entailed for the Department in reviewing, compiling, analyzing and storing the data. For reporting year 2000, over 95 percent of the facilities required to submit Emission Statements submitted them electronically. The proposed amendments would codify this transition to electronic reporting and would clarify the procedures that apply. The amendments, however, would still allow a company for whom it is a hardship to submit its Emission Statements electronically to obtain an exemption, authorizing it to submit them on paper. (Currently less than 30 facilities choose to submit their Emission Statements on paper forms.)

Approximately 850 facilities are currently subject to Emission Statement reporting requirements. The Department does not expect that any additional facilities will become subject to these requirements due to the proposed amendments. Theoretically, because the amendments would add PM_{2.5} and ammonia (NH₃), a precursor to PM_{2.5} formation, to the list of air contaminants in Table 1, Air Contaminant Reporting Thresholds, at N.J.A.C. 7:27-21.2, additional facilities could become subject to Emission Statement requirements if the facilities have a potential to emit PM_{2.5} or NH₃ which is equal to or greater than the reporting threshold of 100 tons per year, and if they are not already subject to Emission Statement requirements. However, the Department believes that any facility that has a potential to emit PM_{2.5} or NH₃ that is equal to or greater than 100 tons per year almost surely is already subject to Emission Statement reporting requirements, because it would also have potential to emit one of the other air contaminants in an amount that is equal to or greater than its reporting threshold. Therefore, these amendments are not expected to impose the costs of the Emission Statement rules' reporting requirements on any additional facilities.

Not all of the approximately 850 facilities would be equally affected by these amendments. The Emission Statement rules classify the affected facilities into two categories: (1) those with higher potentials to emit (higher PTE facilities); and (2) those with lesser potentials to emit (lesser PTE facilities). A higher PTE facility is one that has a potential to emit volatile organic compounds (VOC) of 25 tons per year or greater; or a potential to emit any of the other air contaminants listed in Table 1 that is equal to or greater than the applicable reporting threshold. A lesser PTE facility is one that has a potential to emit volatile organic compounds (VOC) of less than 25 tons per year and a potential to emit each of the other air contaminants listed in Table 1 that is less than the applicable reporting threshold. The proposed amendments would impose fewer additional reporting requirements on lesser PTE facilities (about 450 of the 850 Emission Statement facilities), and where additional reporting is required, gives these lesser PTE facilities two additional years to comply. Specifically, lesser PTE facilities would not be required to report their emissions of PM_{2.5} and NH₃, and would have two years longer than higher PTE facilities to begin reporting their actual emissions of the 36 listed toxic air pollutants proposed to be listed in the Emission Statement rules, in Appendix 1, Table 1.

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The higher PTE facilities would be subject to any incremental costs associated with any additional testing, measurement, emissions calculations and recordkeeping needed to supply emissions information in their annual Emission Statements for PM_{2.5}, NH₃, CO₂, methane, and the 36 toxic air pollutants proposed to be listed in the Emission Statement rules, in Appendix 1, Table 1. These additional obligations would begin for the actual emissions released during reporting year 2002, and reported in the Emission Statement submitted in 2003. In contrast the lesser PTE facilities would be subject only to any incremental costs associated with reporting their actual emissions of the 36 toxic air pollutants proposed to be listed in the Emission Statement rules, in Appendix 1, Table 1, and these additional obligations would not apply until reporting year 2004, for the emissions reported in the Emission Statement submitted in 2005.

The Department expects that the incremental cost to facilities for this additional reporting will not, relatively, be large since the facilities already have systems and resources in place for submitting the currently-required Emission Statement information.

Generally, the incremental costs that a facility would incur in complying with the proposed amendments would be expected to increase as the number of sources at the facility increases. Factors which would decrease these incremental costs include the extent to which the facility already maintains emission records for the additional air contaminants and whether the facility already has in its employ qualified staff available to collect and record the required information. Also, the incremental costs incurred in complying with these amendments should diminish to some degree in the subsequent years, once the management systems for recording, maintaining, and compiling the additional emissions information are established.

For a facility obtaining Department approval to submit its Emission Statements on paper forms, the cost of meeting the additional reporting requirements in these amendments is expected to average \$500.00 per facility. For higher PTE facilities submitting electronically, the Department estimates that the incremental cost per facility will average \$1,000. For lesser PTE facilities submitting electronically, the Department estimates that the incremental cost per facility will average \$600.00. These estimates take into account the fact that 95 percent of all facilities are already reporting their emission data electronically and have in place both the trained personnel and the computer equipment and systems needed to do this. It is not expected that these facilities will need to significantly increase their staffing or invest any additional capital for computer purchases.

These amendments would provide a positive economic impact generally for the State as a whole, and for the Department. The additional required emissions reporting would result in the collection of additional emissions information pertaining to fine particulates, greenhouse gases, and air toxics. This information, and the inventories derived from it, would be publicly available and would inform policy debates conducted within the Department and other venues in State government, in regional forums, and at the Federal level. Better information should result in better targeted policy decisions, so that benefit to public health and welfare can be achieved with the least expenditure of public and private resources.

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Further well-designed environmental policies, that achieve environmental goals cost-effectively, not only result in locales that are healthful to live and work in, but achieve this result by means that enhance the economic vitality of the State. The additional emissions reporting required in the proposed amendments is a building block in the development of such environmental policies for New Jersey.

Environmental Impact

The Department expects the proposed amendments to have a significant and positive environmental impact.

Although these amendments would not require any facility to reduce its air contaminant emissions, the Department anticipates that the new reporting requirements will result in reduced emissions of PM_{2.5}, NH₃, CO₂, methane, and the 36 toxic air pollutants proposed to be listed in N.J.A.C. 7:27-21 Appendix 1, Table 1, Toxic Air Pollutants To Be Reported In Emission Statements. It has been the Department's experience, such as with the Toxics Release Inventory (TRI) Program, that facilities tend over time to voluntarily reduce the quantities of pollutants that they report. Perhaps the reporting raises awareness at a facility of the amount of pollutants being released and provides the facility's management with an information base to use in developing practices which limit emissions.

In addition, the Department expects that the additional information that would be reported pursuant to the proposed amendments, and the inventories derived from the information, would be available to the Department, other governmental entities at the local, State, regional and Federal level and to the interested public to inform environmental policy debates. This availability should help enable the setting of well-designed and targeted policies for the protection of the environment.

The proposed amendments require the reporting of three additional categories of air contaminants. These categories are fine particulate matter, greenhouse gases, and toxic air pollutants, each of which represents an area of emerging environmental concern.

Within the category of fine particulate matter, the proposed amendments would require the reporting of both PM_{2.5} and ammonia (NH₃), a precursor to the formation of PM_{2.5}. PM_{2.5} is a class of very fine particulate matter which includes all particulate matter having an aerodynamic diameter less than or equal to a nominal 2.5 microns. EPA has designated PM_{2.5} as a criteria air pollutant, and has established a National Ambient Air Quality Standard (NAAQS) for this new criteria pollutant. New Jersey is currently implementing a three year Statewide air quality monitoring process which will determine the PM_{2.5} attainment status of all areas of the State. If it is determined that one or more areas in the State do not meet the standard for PM_{2.5}, the State will be obligated, under the Federal Clean Air Act, to prepare and submit to EPA for its approval a State Implementation Plan for PM_{2.5}. The PM_{2.5} and NH₃ data that would be collected pursuant to these proposed rules would help provide the data necessary for the development of a baseline emission inventory for fine particulate matter on which the plan would be based. It would also help the Department identify and characterize significant sources of PM_{2.5} and ammonia, so that effective control measures could be developed and

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incorporated in the plan. Once a State Implementation Plan for PM_{2.5} is in place, the annual PM_{2.5} and NH₃ emissions data that would be collected pursuant to these proposed rules would help the Department track the State's progress toward achieving the standard.

The reporting of PM_{2.5} and NH₃ pursuant to these proposed amendments would also help the State address the environmental issues of regional haze and visibility and meet its obligations under the Federal regional haze and visibility requirements set forth at 42 U.S.C. §§7491 and 7492 and the Federal regional haze regulations, adopted on July 1, 1999, at 40 CFR Part 51. Under the Federal rules, states in a region are required to work together regionally to develop regional PM_{2.5} and NH₃ emission inventories. These Federal rules aim at achieving national visibility goals by 2064, and were adopted pursuant to Section 169 of the Federal Clean Air Act (CAA) (42 U.S.C. §7491). Section 169 calls for the prevention of any future man-made visibility impairment, and the remedying of existing impairment, in "Class 1" areas. The Edwin B. Forsythe National Wildlife Refuge is a Class 1 area located in New Jersey.

Within the category of toxic air pollutants, the proposed amendments would require the reporting of 36 toxics proposed to be listed in N.J.A.C. 7:27-21 Appendix 1, Table 1. Data released by EPA suggests, based on its 1996 National Air Toxics Assessment (NATA), that about 16,600 tons of 33 selected air toxics were emitted into the air in New Jersey in 1996 from sources of all types (large stationary and area sources, and on-road and off-road mobile sources). While the methodology of this initial assessment has been criticized, and EPA itself advises caution in utilizing the data, the finding nonetheless suggests that the question should be examined as to whether current regulation of air toxic emissions is sufficiently protective of public health and welfare and the environment. EPA conducts National Air Toxic Assessments every three years. A first step to be taken would be ensuring that the data used in forthcoming assessments is accurate. EPA relies in part on information provided by states in preparing its assessments. Until now, the Department only has been able to provide EPA with limited information based on facilities' potentials to emit and stack sampling test data. These amendments would enable New Jersey to contribute some additional actual emissions information for the upcoming 2002 National Air Toxics Assessment and more extensive actual emission information for the 2005 National Air Toxics Assessment. In addition, if the actual emissions information collected indicates that emissions leading to air concentrations of concern are in fact occurring, the information would provide a basis for developing targeted and effective emission prevention and control strategies.

The Department selected the 36 toxic air pollutants listed in N.J.A.C. 7:27-21 Appendix 1, Table 1, based on its determination of which emissions could be of most concern in New Jersey. All of the substances on the list are identified by EPA as hazardous air pollutants, pursuant to the Federal Clean Air Act at 42 U.S.C. §7412(b). All of them are also among the toxic substances required to be reported under EPA's Toxic Release Inventory (TRI) Program. Thirty-one of the toxic air pollutants are among the 33 pollutants identified by EPA in its Urban Air Toxics Strategy as those that pose the greatest potential health threat in urban areas. (Two of the 33 pollutants on the Urban Air Toxics list are not included in the toxic air pollutants listed in proposed N.J.A.C. 7:27-21, Appendix 1, Table 1. They are coke oven emissions and lead. Coke oven emissions are not included because there are no coke ovens in New Jersey. Lead was omitted because it is already included on

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Emission Statement in Table 1 at N.J.A.C. 7:27-21.2.) Thirteen of the substances are the 13 toxic substances listed in New Jersey's air quality rules at N.J.A.C. 7:27-17.

Within the category of greenhouse gases, the proposed amendments would require the reporting of carbon dioxide (CO₂) and methane (CH₄). Currently the Department's air quality rules do not recognize carbon dioxide as an air contaminant. Specifically, the current rules classify carbon dioxide as a "distillate of air," and the definition of "air contaminant" excludes all distillates of air. The proposed amendments would revise the definition of "distillate of air" to remove carbon dioxide from the list of chemical species that are distillates of air, so that for the purposes of the Emission Statement rules carbon dioxide would be considered an air contaminant which can be made subject to reporting requirements. The chemical species that are listed as distillates of air appear to have been selected because the Department believed them to be environmentally benign. Over the past decade, a growing body of scientific evidence has emerged linking emissions of greenhouse gases to climate change and sea level rise. (See, for example, **The Challenge of Global Warming**, D.A. Abranhamson, Ed., National Resources Defense Council, Island Press, 1989; or **International Panel on Climate Change (IPCC): Climate Change 1992: The Supplemental Report to the Scientific Assessment**, Cambridge University Press, New York, 1992; or **Climate Change Impacts on the United States: The Potential Consequences of Climate Variability and Change**, National Assessment, Synthesis Team, US Global Change Research Program, Cambridge University Press, 2001.) The potential climatological and other effects that are projected to occur when greenhouse gas concentrations in the atmosphere are increased due to anthropogenic activities supports the conclusion that carbon dioxide should no longer be disregarded in the formulation of environmental policy.

The reporting of CO₂ and CH₄ emissions would enable the Department to evaluate its current policies for limiting greenhouse gas emissions. Reducing greenhouse gas emissions, or at least reducing the rate of increase of greenhouse emissions, should help prevent, slow, or put off any potential adverse consequences that could result from increasing concentrations of greenhouse gases in the atmosphere. To this end, DEP Commissioner Robert C. Shinn, Jr., in an Administrative Order dated March 17, 1998, established the goal of reducing greenhouse gas reductions by 3.5 percent below 1990 levels by year 2005, and the Department has undertaken a voluntary approach to achieving these reductions. (See **New Jersey Sustainability Greenhouse Gas Action Plan, State of New Jersey**, Department of Environmental Protection, 1999.) The reporting of CO₂ and CH₄ emissions, as would be required under these proposed amendments, would enable the Department and other interested parties to track CO₂ and CH₄ emission trends and to assess the effectiveness of the current voluntary approach in achieving this greenhouse gas reduction goal and whether current policies are sufficiently protective of public health and welfare, animal and plant life, and property, or whether other measures (voluntary or mandatory) should also be taken.

Federal Standards Statement

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Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. (P.L. 1995, c. 65) require State agencies that adopt, readopt or amend State rules which exceed any Federal standards or requirements to include in the rulemaking document a Federal standard analysis.

The Department has compared the proposed amendments to N.J.A.C. 7:27-21, Emission Statements, to analogous Federal regulatory requirements. It has determined that the portions of the proposed amendments to N.J.A.C. 7:27-21, Emission Statements, that pertain to reporting of PM_{2.5} and ammonia (NH₃), a precursor to the formation of PM_{2.5}, are needed in order to comply with the Federal regional haze and visibility requirements set forth at 42 U.S.C. §§7491 and 7492 and the Federal regional haze regulations, adopted on July 1, 1999, at 40 CFR Part 51. Under the Federal rules, states are required to work together regionally to develop regional PM_{2.5} and NH₃ emission inventories. The provisions pertaining to reporting of PM_{2.5} and NH₃ are also being proposed for promulgation in order to comply with anticipated emission reporting obligations that would accrue to the State under the Consolidated Emissions Reporting Rule which was proposed by EPA on May 23, 2000, in the Federal Register (65 FR 33268-80). Finally, provisions pertaining to reporting of PM_{2.5} and NH₃ are also being proposed for promulgation in order to comply, should any area of the State to be found out of compliance with the National Ambient Air Quality Standard for PM_{2.5}, with the obligation under Section 110 of the Federal Clean Air Act (42 U.S.C. §7410) to prepare a State Implementation Plan for PM_{2.5}.

The portions of the proposed amendments to N.J.A.C. 7:27-21, Emission Statements, that pertain to reporting of emissions of greenhouse gases and toxic air pollutants are not being promulgated under the authority of or in order to implement or comply with any program under Federal law, or under a State statute that incorporates or refers to Federal law, Federal standards or Federal requirements. The Department has determined that at present there are no analogous Federal regulatory requirements. No Federal laws or regulations require that a State mandate that its facilities report their actual emissions of greenhouse gases or hazardous air pollutants. The Department is proposing these amendments based on its determination that the reporting of actual emissions of certain greenhouse gases and air toxics is necessary to enable the Department to have sufficient information to determine if the health, safety and welfare of New Jersey citizens is sufficiently protected; to develop well-targeted and cost-effective regulatory programs, if and as needed; and/or to track progress toward meeting environmental goals. A more detailed discussion of the policy reasons for proposing these additional reporting requirements are discussed in the Social and Environmental Impact statements of this proposal, and of the costs and benefits of the proposal in the Economic Impact statement.

Jobs Impact

These amendments are expected to have a very small, but positive, impact on employment and jobs in New Jersey. The modest costs incurred by facilities to comply with the proposed new emissions reporting requirements are not anticipated to affect their operations in such a way as to affect employment, except that there may be a slight increase at some facilities in the personnel needed to prepare Emission Statements. That is, while most facilities are expected to be able to accommodate the additional reporting by modifying the job responsibilities of current professional,

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technical, and clerical personnel, some facilities may elect instead to contract for additional outside professional services. The additional resources needed for implementing the additional reporting will be relatively small as the affected facilities are the same facilities that are currently preparing and submitting Emission Statements, so they already have recordkeeping and reporting systems in place. The Department does not anticipate the need to expand its staff to administer and manage this additional reporting since almost all of the reporting will be done electronically using the reporting systems already in place.

Agriculture Industry Impact

Pursuant to P.L. 1998, c. 48, adopted on July 2, 1998, the Department has evaluated this rulemaking to determine the nature and extent of impact of the proposed rule on the agricultural industry.

The proposed amendments rule should have no or negligible impact on the State's agricultural industry. The proposed amendments would affect only facilities that are already subject to the Emission Statement requirements. Such facilities are not farmers or agriculture-related businesses except, perhaps, companies such as large chemical companies, that produce agricultural pharmaceuticals, and that have a potential to emit one or more air contaminants in quantities which exceed the reporting thresholds given in Table 1, Air Contaminant Reporting Thresholds, at N.J.A.C. 7:27-21.2.

Regulatory Flexibility Analysis

In accordance with the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the Department has determined that the proposed amendments will most likely affect some small businesses.

The amendments would require the owner or operators of facilities that submit Emission Statements additionally to report their emission of certain air toxics, and in some cases also their emissions of PM_{2.5}, ammonia, carbon dioxide and methane. This would possibly entail additional testing, and certainly entail additional recordkeeping and annual compilation of emissions data which would be entered into the Emission Statement submitted for the facility.

The proposed amendments are expected to affect only facilities that are already subject to Emission Statement requirements. To be subject to Emission Statement requirements, a facility must have a potential to emit one or more air contaminants in quantities which exceed the reporting thresholds given in Table 1, Air Contaminant Reporting Thresholds, at N.J.A.C. 7:27-21.2. Where generally small businesses are not such high potential emission sources as to qualify as Emission Statement facilities, it is likely that some qualify as small businesses. The New Jersey Regulatory Flexibility Act (P.L.1986 c.169) defines a small business as one which is a resident in this State, independently owned and operated and not dominant in its field, which employs fewer than 100 full-time employees.

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For affected companies, the Department has determined that the proposed amendments would not significantly increase their costs. Since the companies would already be submitting Emission Statements, they would have a system in place for testing, recordkeeping, and reporting in order to develop the information required to be included in annual Emission Statements. They would also have the computers and computer systems in place for carrying out the recordkeeping and data management. Depending on a facility's potential to emit each of the 40 additional air contaminants included in these amendments, and whether this potential to emit exceeds the reporting threshold for the air contaminant, these amendments may require the facility to report all 40 additional air contaminants, no additional air contaminants, or any number in between. The additional costs that such a facility would incur would primarily be the costs of the manpower for carrying out any additional testing, recordkeeping, and reporting. This manpower can be provided either by company employees or consultants, as the company chooses. It is not expected that the affected facilities would incur additional capital costs, since they would already have the necessary computers and computer systems in place. (For more discussion of the financial impacts, see the economic impact above.

The proposed amendments include provisions that would lessen the burden on affected facilities. The provisions in the amendments pertaining to electronic reporting should simplify the reporting process and make it more efficient. However, if a company prefers not to report electronically, the proposed amendments do allow the company to obtain an exemption to submit its report on paper.

In addition, the Department also attempts to lessen the burden on affected facilities by providing technical support. The Department holds an annual workshop at which all aspects of the Emission Statement program are reviewed. This workshop is arranged through the Cook College Office of Continuing Professional Education at Rutgers University, New Brunswick, New Jersey. Registration information for this workshop can be accessed at the website <http://ccok.rutgers.edu/~ocpe>. The next scheduled Emission Statement workshop will be held on February 20, 2002. The Department also operates a help desk specifically to assist facilities with questions related to the Emission Statement submittal. The Emission Statement help desk can be reached by calling (609) 984-5483.

However, any small business that is subject to the Emission Statement rules has a relatively large potential to emit air contaminants, and it would not be appropriate, from the perspective of protection of public health and welfare and the environment, to exempt such businesses from the reporting requirements proposed in these amendments.